

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

JAMES CROSBY, et al.,)
Plaintiffs,)
v.) CIVIL ACTION NO. 04-0144-CG-M
MOBILE COUNTY, et al.,)
Defendants.)

ORDER

This matter is before the court on the motion of the sole remaining plaintiff, Jimmie Gardner, for clarification of the court's earlier orders. (Doc. 101). Plaintiff seeks clarification that the remaining claim for failure to promote against Sheriff Jack Tillman is a Title VII claim. The court previously granted in part the motion of Sheriff Jack Tillman to dismiss stating that the motion was granted "to the extent that all claims for monetary damages against Jack Tillman in his official capacity are hereby **DISMISSED**." (Doc. 42). However, the order only addressed claims asserted pursuant to 42 U.S.C. §§ 1981 and 1983, as that was the scope of the motion to dismiss. (See Doc. 37 - brief in support of motion to dismiss). The court quoted that same language in the order on summary judgment (Doc. 89, p. 2) and later concluded that "the only remaining claim in this case is Garner's discriminatory failure to promote claim for injunctive and declaratory relief against Sheriff Tillman and the Mobile County Personnel Board." (Doc. 95, p. 2).

After review of the above orders, the court finds that Garner's Title VII claim against Sheriff Tillman and the Mobile County Personnel Board for discriminatory failure to promote has not been dismissed.

Therefore, plaintiff's motion to clarify is **GRANTED** and the court's order of October 13, 2005 (Doc. 95) is hereby **AMENDED** to state that Gardner's Title VII discriminatory failure to promote claim remains in this case.

DONE and **ORDERED** this 31st day of October, 2005.

/s/ Callie V. S. Granade

CHIEF UNITED STATES DISTRICT JUDGE